

House Amendment 8640

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1 1 Amend House File 2690 as follows:
1 2 #1. By striking everything after the enacting
1 3 clause and inserting the following:
1 4 <Section 1. Section 7C.12, subsection 2, Code
1 5 2007, is amended by adding the following new
1 6 paragraph:
1 7 NEW PARAGRAPH. c. Shall report quarterly any
1 8 reallocation of the amount of the state ceiling by the
1 9 governor's designee in accordance with this chapter to
1 10 the legislative government oversight committee and the
1 11 auditor of state. The report shall contain, at a
1 12 minimum, the amount of each reallocation, the date of
1 13 each reallocation, the name of the political
1 14 subdivision and a description of all bonds issued
1 15 pursuant to a reallocation, a brief explanation of the
1 16 reason for the reallocation, and such other
1 17 information as may be required by the committee.
1 18 Sec. 2. NEW SECTION. 7C.13 QUALIFIED STUDENT
1 19 LOAN BOND ISSUER == OPEN RECORDS AND MEETINGS ==
1 20 OVERSIGHT.
1 21 1. CONDITION OF ALLOCATION. As a condition of
1 22 receiving the allocation of the state ceiling as
1 23 provided in section 7C.4A, subsection 3, the qualified
1 24 student loan bond issuer shall comply with the
1 25 provisions of this section.
1 26 2. ANNUAL REPORT AND AUDIT. The qualified student
1 27 loan bond issuer shall submit an annual report to the
1 28 governor, general assembly, and the auditor of state
1 29 by January 15 setting forth its operations and
1 30 activities conducted and newly implemented in the
1 31 previous fiscal year related to use of the allocation
1 32 of the state ceiling in accordance with this chapter
1 33 and the outlook for the future. The report shall
1 34 describe how the operations and activities serve
1 35 students and parents. The annual audit of the
1 36 qualified student loan bond issuer shall be filed with
1 37 the office of auditor.
1 38 3. OPEN MEETINGS FOR CONSIDERATION OF TAX-EXEMPT
1 39 ISSUANCE. The deliberations or meetings of the board
1 40 of directors of the qualified student loan bond issuer
1 41 that relate to the issuance of bonds in accordance
1 42 with this chapter shall be conducted in accordance
1 43 with chapter 21.
1 44 4. PUBLIC HEARING PRIOR TO ISSUANCE OF TAX-EXEMPT
1 45 BONDS. Prior to the issuance of tax-exempt bonds in
1 46 accordance with this chapter, the board of directors
1 47 of the qualified student loan bond issuer shall hold a
1 48 public meeting after reasonable notice. The board
1 49 shall give notice of the time, date, and place of the
1 50 meeting, and its tentative agenda, in a manner
2 1 reasonably calculated to apprise the public of that
2 2 information and provide interested parties with an
2 3 opportunity to submit or present data, views, or
2 4 arguments related to the issuance of the bonds.
2 5 5. OPEN RECORDS FOR CONSIDERATION OF TAX-EXEMPT
2 6 BONDS. All of the following shall be subject to
2 7 chapter 22:
2 8 a. Minutes of the meetings conducted in accordance
2 9 with subsection 3.
2 10 b. The data and written views or arguments
2 11 submitted in accordance with subsection 4.
2 12 c. Letters seeking approval from the governor for
2 13 issuance of tax-exempt bonds in accordance with this
2 14 chapter.
2 15 d. The published official statement of each
2 16 tax-exempt bond issue authorized in accordance with
2 17 this chapter.
2 18 6. STATE SUPERINTENDENT OF BANKING REVIEW. The
2 19 superintendent of banking shall annually review the
2 20 qualified student loan bond issuer's total assets,
2 21 loan volume, and reserves. Additionally, the
2 22 superintendent shall review the qualified student loan
2 23 bond issuer's procedures to inform students, prior to
2 24 the submission of an application to the qualified

2 25 student loan bond issuer for a loan made by the
2 26 qualified student loan bond issuer, about the
2 27 advantages of loans available under Title IV of the
2 28 federal Higher Education Act of 1965, as amended, for
2 29 which the students may be eligible. The review shall
2 30 verify that the qualified student loan bond issuer
2 31 issued bonds in accordance with this chapter in
2 32 conformance to the letter requesting approval of the
2 33 governor as set forth in subsection 5. The
2 34 superintendent shall submit the review to the general
2 35 assembly by January 15.

2 36 7. NO STATE OBLIGATION FOR BONDS. The obligations
2 37 of the qualified student loan bond issuer are not the
2 38 obligations of the state or any political subdivision
2 39 of the state within the meaning of any constitutional
2 40 or statutory debt limitations, but are obligations of
2 41 the qualified student loan bond issuer payable solely
2 42 and only from the qualified student loan bond issuer's
2 43 funds. The qualified student loan bond issuer shall
2 44 not and cannot pledge the credit or taxing power of
2 45 this state or any political subdivision of this state
2 46 or make its debts payable out of any moneys except
2 47 those of the qualified student loan bond issuer.

2 48 Sec. 3. NEW SECTION. 261E.1 DEFINITIONS.

2 49 As used in this chapter, unless otherwise
2 50 specified:

3 1 1. "Borrower" means a student attending a covered
3 2 institution in this state, or a parent or person in
3 3 parental relation to such student, who obtains an
3 4 educational loan from a lending institution to pay for
3 5 or finance a student's higher education expenses.

3 6 2. "Covered institution" means any educational
3 7 institution that offers a postsecondary educational
3 8 degree, certificate, or program of study and receives
3 9 any Title IV funds under the federal Higher Education
3 10 Act of 1965, as amended, or state funding or
3 11 assistance. "Covered institution" includes an
3 12 authorized agent of the educational institution,
3 13 including an alumni association, booster club, or
3 14 other organization directly or indirectly associated
3 15 with or authorized by the institution or an employee
3 16 of the institution.

3 17 3. "Covered institution employee" means any
3 18 employee, agent, contract employee, director, officer,
3 19 or trustee of a covered institution.

3 20 4. "Educational loan" means any loan that is made,
3 21 insured, or guaranteed under Title IV of the federal
3 22 Higher Education Act of 1965, as amended, directly to
3 23 a borrower solely for educational purposes, or any
3 24 private educational loan.

3 25 5. "Gift" means any gratuity, favor, discount,
3 26 entertainment, hospitality, loan, or other item having
3 27 a monetary value of more than a de minimus amount.

3 28 "Gift" includes a gift of services, transportation,
3 29 lodging, or meals, whether provided in kind, by
3 30 purchase of a ticket, payment in advance, or
3 31 reimbursement after the expense has been incurred.

3 32 "Gift" does not include any of the following:

3 33 a. Standard material, activities, or programs on
3 34 issues related to a loan, default aversion, default
3 35 prevention, or financial literacy.

3 36 b. Food or refreshments furnished to an officer,
3 37 employee, or agent of an institution as an integral
3 38 part of a training session or conference that is
3 39 designed to contribute to the professional development
3 40 of the officer, employee, or agent of the institution.

3 41 c. Favorable terms, conditions, and borrower
3 42 benefits on an educational loan provided to a borrower
3 43 employed by the covered institution if such terms,
3 44 conditions, or benefits are comparable to those
3 45 provided to all students of the institution.

3 46 d. Philanthropic contributions to a covered
3 47 institution from a lender, guarantor, or servicer of
3 48 educational loans that are unrelated to educational
3 49 loans provided, as applicable, that the contributions
3 50 are disclosed pursuant to section 261E.4, subsection

4 1 6.

4 2 e. State education grants, scholarships, or
4 3 financial aid funds administered under chapter 261.

4 4 f. Toll-free telephone numbers for use by covered
4 5 institutions or other toll-free telephone numbers open

4 6 to the public to obtain information about loans
4 7 available under Title IV of the federal Higher
4 8 Education Act of 1965, as amended, or private
4 9 educational loans, or free data transmission service
4 10 for use by a covered institution to electronically
4 11 submit applicant loan processing information or
4 12 student status confirmation data for loans available
4 13 under Title IV of the federal Higher Education Act of
4 14 1965.

4 15 g. A reduced origination fee.
4 16 h. A reduced interest rate.
4 17 i. Payment of federal default fees.
4 18 j. Purchase of a loan made by another lender at a
4 19 premium.

4 20 k. Other benefits to a borrower under a repayment
4 21 incentive program that requires, at a minimum, one or
4 22 more scheduled payments to receive or retain the
4 23 benefit or under a loan forgiveness program for public
4 24 service or other targeted purposes approved by the
4 25 attorney general, provided these benefits are not
4 26 marketed to secure loan applications or loan
4 27 guarantees.

4 28 l. Items of nominal value to a covered
4 29 institution, covered institution employee, covered
4 30 institution-affiliated organization, or borrower that
4 31 are offered as a form of generalized marketing or
4 32 advertising, or to create goodwill.

4 33 m. Items of value which are offered to a borrower
4 34 or to a covered institution employee that are also
4 35 offered to the general public.

4 36 n. Other services as identified and approved by
4 37 the attorney general through a public announcement,
4 38 such as a notice on the attorney general's web site.

4 39 6. "Lender" or "lending institution" means a
4 40 creditor as defined in section 103 of the federal
4 41 Truth in Lending Act, 15 U.S.C. } 1602.

4 42 7. "Postsecondary educational expenses" means any
4 43 of the expenses that are included as part of a
4 44 student's cost of attendance as defined in Title IV,
4 45 part F, of the federal Higher Education Act of 1965,
4 46 as amended.

4 47 8. "Preferred lender arrangement" means an
4 48 arrangement or agreement between a lender and a
4 49 covered institution under which the lender provides or
4 50 otherwise issues educational loans to borrowers and
5 1 which relates to the covered institution recommending,
5 2 promoting, or endorsing the educational loan product
5 3 of the lender. "Preferred lender arrangement" does
5 4 not include arrangements or agreements with respect to
5 5 loans under part D or E of Title IV of the federal
5 6 Higher Education Act of 1965, as amended.

5 7 9. "Preferred lender list" means a list of at
5 8 least three recommended or suggested, unaffiliated
5 9 lending institutions that a covered institution makes
5 10 available for use, in print or any other medium or
5 11 form, by borrowers, prospective borrowers, or others.

5 12 10. "Private educational loan" means a private
5 13 loan provided by a lender that is not made, insured,
5 14 or guaranteed under Title IV of the federal Higher
5 15 Education Act of 1965, as amended, and is issued by a
5 16 lender solely for postsecondary educational expenses
5 17 to a borrower, regardless of whether the loan involves
5 18 enrollment certification by the educational
5 19 institution that the student for which the loan is
5 20 made attends. "Private educational loan" does not
5 21 include a private educational loan secured by a
5 22 dwelling or under an open-end credit plan. For
5 23 purposes of this subsection, "dwelling" and "open-end
5 24 credit plan" have the meanings given such terms in
5 25 section 103 of the federal Truth in Lending Act, 15
5 26 U.S.C. } 1602.

5 27 11. "Revenue sharing arrangement" means an
5 28 arrangement between a covered institution and a lender
5 29 in which the lender provides or issues educational
5 30 loans to persons attending the institution or on
5 31 behalf of persons attending the institution and the
5 32 covered institution recommends the lender or the
5 33 educational loan products of the lender, in exchange
5 34 for which the lender pays a fee or provides other
5 35 material benefits, including revenue or profit
5 36 sharing, to the institution or officers, employees, or

5 37 agents of the institution. "Revenue sharing
5 38 arrangement" does not include arrangements related
5 39 solely to products which are not educational loans.
5 40 Sec. 4. NEW SECTION. 261E.2 CODE OF CONDUCT.
5 41 1. A covered institution shall do the following:
5 42 a. Develop, in consultation with the college
5 43 student aid commission, a code of conduct governing
5 44 educational loan activities with which the covered
5 45 institution's officers, employees, and agents shall
5 46 comply.
5 47 b. Publish the code of conduct developed in
5 48 accordance with paragraph "a" prominently on its
5 49 internet site.
5 50 c. Administer and enforce the code of conduct
6 1 developed in accordance with paragraph "a".
6 2 2. The college student aid commission shall
6 3 provide to covered institutions assistance and
6 4 guidance relating to the development, administration,
6 5 and monitoring of a code of conduct governing
6 6 educational loan activities.
6 7 3. Except as provided in this section, the college
6 8 student aid commission is not subject to the duties,
6 9 restrictions, prohibitions, and penalties of this
6 10 chapter.
6 11 Sec. 5. NEW SECTION. 261E.3 PROHIBITIONS ==
6 12 REPORT.
6 13 1. GIFT BAN. No officer, employee, or agent of a
6 14 covered institution who is employed in the financial
6 15 aid office of the institution, or who otherwise has
6 16 direct responsibilities with respect to educational
6 17 loans, shall solicit or accept any gift from a lender,
6 18 guarantor, or servicer of educational loans. The
6 19 attorney general shall investigate any reported
6 20 violation of this subsection and shall annually submit
6 21 a report to the general assembly by January 15
6 22 identifying all substantiated violations of this
6 23 subsection, including the lenders and covered
6 24 institutions involved in each such violation, for the
6 25 preceding year.
6 26 2. GIFTS TO FAMILY MEMBERS OR OTHERS. For
6 27 purposes of this section, a gift to a family member of
6 28 an officer, employee, or agent of a covered
6 29 institution, or a gift to any other individual based
6 30 on that individual's relationship with the officer,
6 31 employee, or agent, shall be considered a gift to the
6 32 officer, employee, or agent if either of the following
6 33 applies:
6 34 a. The gift is given with the knowledge and
6 35 acquiescence of the officer, employee, or agent.
6 36 b. The officer, employee, or agent has reason to
6 37 believe the gift was given because of the official
6 38 position of the officer, employee, or agent.
6 39 3. CONTRACTING ARRANGEMENTS. An officer,
6 40 employee, or agent who is employed in the financial
6 41 aid office of a covered institution, or who otherwise
6 42 has direct responsibilities with respect to
6 43 educational loans, shall not accept from any lender or
6 44 affiliate of any lender any fee, payment, or other
6 45 financial benefit including but not limited to the
6 46 opportunity to purchase stock on other than free
6 47 market terms, as compensation for any type of
6 48 consulting arrangement or other contract to provide
6 49 services to a lender or on behalf of a lender.
6 50 4. REVENUE SHARING ARRANGEMENTS. A covered
7 1 institution shall not enter into any revenue sharing
7 2 arrangement with any lender.
7 3 5. PROHIBITION ON OFFERS OF FUNDS FOR PRIVATE
7 4 LOANS. A covered institution shall not request or
7 5 accept from any lender any offer of funds, including
7 6 any opportunity pool, to be used for private
7 7 educational loans to borrowers in exchange for the
7 8 covered institution providing concessions or promises
7 9 to the lender with respect to such institution
7 10 providing the lender with a specified number of loans,
7 11 a specified loan volume, or a preferred lender
7 12 arrangement for any loan made, insured, or guaranteed
7 13 under Title IV of the federal Higher Education Act of
7 14 1965, as amended, and a lender shall not make any such
7 15 offer. For purposes of this subsection, "opportunity
7 16 pool" means an educational loan made by a private
7 17 lender to a borrower that is in any manner guaranteed

7 18 by a covered institution, or that involves a payment,
7 19 directly or indirectly, by such an institution of
7 20 points, premiums, payments, additional interest, or
7 21 other financial support to the lender for the purpose
7 22 of that lender extending credit to the borrower.
7 23 6. PARTICIPATION ON ADVISORY COUNCILS. An
7 24 officer, employee, or agent who is employed in the
7 25 financial aid office of a covered institution, or who
7 26 otherwise has direct responsibilities with respect to
7 27 educational loans, shall not serve on or otherwise
7 28 participate with advisory councils of lenders or
7 29 affiliates of lenders. Nothing in this subsection
7 30 shall prohibit lenders from seeking advice from
7 31 covered institutions or groups of covered
7 32 institutions, including through telephonic or
7 33 electronic means, or a meeting, in order to improve
7 34 products and services for borrowers, provided there
7 35 are no gifts or compensation including but not limited
7 36 to transportation, lodging, or related expenses,
7 37 provided by lenders in connection with seeking such
7 38 advice from the institutions. Nothing in this
7 39 subsection shall prohibit an officer, employee, or
7 40 agent of a covered institution from serving on the
7 41 board of directors of a lender if required by law.
7 42 7. EXCEPTIONS.
7 43 a. Nothing in this section shall be construed as
7 44 prohibiting any of the following:
7 45 (1) An officer, employee, or agent of a covered
7 46 institution who is not employed in the institution's
7 47 financial aid office, or who does not otherwise have
7 48 direct responsibilities with respect to educational
7 49 loans, from paid or unpaid service on a board of
7 50 directors of a lender, guarantor, or servicer of
8 1 educational loans.
8 2 (2) An officer, employee, or agent of a covered
8 3 institution who is not employed in the financial aid
8 4 office but who has direct responsibility with respect
8 5 to educational loans as a result of a position held at
8 6 the covered institution, from paid or unpaid service
8 7 on a board of directors of a lender, guarantor, or
8 8 servicer of educational loans, provided that the
8 9 covered institution has a written conflict of interest
8 10 policy that clearly sets forth that such an officer,
8 11 employee, or agent must be recused from participating
8 12 in any decision of the board with respect to any
8 13 transaction regarding educational loans.
8 14 (3) An officer, employee, or agent of a lender,
8 15 guarantor, or servicer of educational loans from
8 16 serving on a board of directors or serving as a
8 17 trustee of a covered institution, provided that the
8 18 covered institution has a written conflict of interest
8 19 policy that clearly sets forth the procedures to be
8 20 followed in instances where such a board member's or
8 21 trustee's personal or business interests with respect
8 22 to educational loans may be advanced by an action of
8 23 the board of directors or trustees, including a
8 24 provision that such a board member or trustee may not
8 25 participate in any decision to approve any transaction
8 26 where such conflicting interests may be advanced.
8 27 b. Nothing in this chapter shall be construed to
8 28 prohibit a covered institution from lowering
8 29 educational loan costs for borrowers, including
8 30 payments made by the covered institution to lending
8 31 institutions on behalf of borrowers.
8 32 Sec. 6. NEW SECTION. 261E.4 MISLEADING
8 33 IDENTIFICATION == COVERED INSTITUTION == LENDING
8 34 INSTITUTIONS' EMPLOYEES.
8 35 1. A lending institution shall prohibit an
8 36 employee or agent of the lending institution from
8 37 being identified to borrowers or prospective borrowers
8 38 of a covered institution as an employee,
8 39 representative, or agent of the covered institution.
8 40 2. A covered institution shall prohibit an
8 41 employee or agent of a lending institution from being
8 42 identified as an employee, representative, or agent of
8 43 the covered institution.
8 44 3. An employee, representative, or agent of a
8 45 lending institution included on a covered
8 46 institution's preferred lending list shall not staff a
8 47 covered institution's financial aid offices or call
8 48 center and shall not prepare any of the covered

8 49 institution's materials related to educational loans.
8 50 4. A covered institution that has entered into a
9 1 preferred lender arrangement with a lender regarding
9 2 private educational loans shall not agree to the
9 3 lender's use of the name, emblem, mascot, or logo of
9 4 the institution, or other words, pictures, or symbols
9 5 readily identified with the institution, in the
9 6 marketing of private educational loans to the students
9 7 attending the institution in any way that implies that
9 8 the institution endorses the private educational loans
9 9 offered by the lender. However, the covered
9 10 institution may allow the use of its name if it is
9 11 part of the lending institution's legal name.
9 12 5. Nothing in this section shall prohibit a
9 13 covered institution from requesting or accepting the
9 14 following assistance from a lender related to any of
9 15 the following:
9 16 a. Providing educational counseling materials,
9 17 financial literacy materials, or debt management
9 18 materials to borrowers, provided that such materials
9 19 disclose to borrowers the identification of any lender
9 20 that assisted in preparing or providing such
9 21 materials.
9 22 b. Staffing services on a short-term, nonrecurring
9 23 basis to assist the institution with financial
9 24 aid-related functions during emergencies, including
9 25 state-declared or federally declared natural
9 26 disasters, federally declared national disasters, and
9 27 other localized disasters and emergencies identified
9 28 by the attorney general.
9 29 6. The attorney general shall adopt rules
9 30 providing for the disclosure, for lenders with a
9 31 preferred lender arrangement, of philanthropic
9 32 contributions made as specified in section 261E.1,
9 33 subsection 5, paragraph "d".
9 34 Sec. 7. NEW SECTION. 261E.5 LOAN DISCLOSURE ==
9 35 LOAN BUNDLING == PROHIBITIONS.
9 36 1. A covered institution that has entered into a
9 37 preferred lender arrangement with a lender regarding
9 38 private educational loans shall inform the borrower or
9 39 prospective borrower of all available state education
9 40 financing options, and financing options under Title
9 41 IV of the federal Higher Education Act of 1965, as
9 42 amended, including information on any terms and
9 43 conditions of available loans under such title that
9 44 are more favorable to the borrower.
9 45 2. A covered institution shall prohibit the
9 46 bundling of private educational loans in financial aid
9 47 packages, unless the borrower is ineligible for
9 48 financing, is not eligible for any additional funding,
9 49 or has exhausted the limits of loan eligibility, under
9 50 Title IV of the federal Higher Education Act of 1965,
10 1 as amended, or has not filled out a free application
10 2 for federal student aid, and the bundling of the
10 3 private educational loans is clearly and conspicuously
10 4 disclosed to the borrower prior to acceptance of the
10 5 package by the borrower. The provisions of this
10 6 subsection shall not apply if the borrower does not
10 7 desire or refuses to apply for a loan under Title IV
10 8 of the federal Higher Education Act of 1965.
10 9 3. A lending institution included on a covered
10 10 institution's preferred lender list shall disclose,
10 11 clearly and conspicuously, in any application for a
10 12 private educational loan, all of the following:
10 13 a. The rate of interest or the potential range of
10 14 rates of interest applicable to the loan and whether
10 15 such rates are fixed or variable.
10 16 b. Limitations, if any, on interest rate
10 17 adjustments, both in terms of frequency and amount, or
10 18 lack thereof.
10 19 c. Coborrower requirements, including changes in
10 20 interest rates.
10 21 d. Any fees associated with the loan.
10 22 e. The repayment terms available on the loan.
10 23 f. The opportunity for deferment or forbearance in
10 24 repayment of the loan, including whether the loan
10 25 payments can be deferred if the borrower is in school.
10 26 g. Any additional terms and conditions applied to
10 27 the loan, including any benefits that are contingent
10 28 on the repayment behavior of the borrower.
10 29 h. Information comparing federal and private

10 30 educational loans.

10 31 i. An example of the total cost of the educational
10 32 loan over the life of the loan which shall be
10 33 calculated using the following:

10 34 (1) A principal amount and the maximum rate of
10 35 interest actually offered by the lender, or, if there
10 36 is no maximum rate provided under the terms of the
10 37 loan agreement or applicable state or federal law, a
10 38 statement to that effect.

10 39 (2) Both with and without capitalization of
10 40 interest, if that is an option for postponing interest
10 41 payments.

10 42 j. The consequences for the borrower of defaulting
10 43 on a loan, including any limitations on the discharge
10 44 of an educational loan in bankruptcy.

10 45 k. Contact information for the lender.

10 46 4. Not later than January 31, 2009, the attorney
10 47 general shall develop and make available to lenders a
10 48 model disclosure form that is based on the
10 49 requirements of subsection 3. Use of the model
10 50 disclosure form by a lending institution in a manner
11 1 consistent with this chapter shall constitute
11 2 compliance with subsection 3.

11 3 Sec. 8. NEW SECTION. 261E.6 STANDARDS FOR
11 4 PREFERRED LENDER LISTS.

11 5 1. A covered institution may make available a list
11 6 of preferred lenders, in print or any other medium or
11 7 form, for use by the covered institution's students or
11 8 their parents, provided the list meets the following
11 9 conditions:

11 10 a. The list is not used to deny or otherwise
11 11 impede a borrower's choice of lender.

11 12 b. The list contains at least three lenders that
11 13 are not affiliated and will make loans to borrowers or
11 14 students attending the school. For the purposes of
11 15 this paragraph, a lender is affiliated with another
11 16 lender if any of the following applies:

11 17 (1) The lenders are under the ownership or control
11 18 of the same entity or individuals.

11 19 (2) The lenders are wholly or partly owned
11 20 subsidiaries of the same parent company.

11 21 (3) The directors, trustees, or general partners,
11 22 or individuals exercising similar functions, of one of
11 23 the lenders constitute a majority of the persons
11 24 holding similar positions with the other lender.

11 25 c. The list does not include lenders that have
11 26 offered, or have offered in response to a solicitation
11 27 by the covered institution, financial or other
11 28 benefits to the covered institution in exchange for
11 29 inclusion on the list or any promise that a certain
11 30 number of loan applications will be sent to the lender
11 31 by the covered institution or its students.

11 32 2. A covered institution that provides or makes
11 33 available a preferred lender list shall do the
11 34 following:

11 35 a. Disclose to prospective borrowers, as part of
11 36 the list, the method and criteria used by the covered
11 37 institution in selecting any lender that it recommends
11 38 or suggests.

11 39 b. Provide comparative information to prospective
11 40 borrowers about interest rates and other benefits
11 41 offered by the lenders.

11 42 c. Include a prominent statement in any
11 43 information related to its preferred lender list
11 44 advising prospective borrowers that the borrowers are
11 45 not required to use one of the covered institution's
11 46 recommended or suggested lenders.

11 47 d. For first-time borrowers, refrain from
11 48 assigning, through award packaging or other methods, a
11 49 borrower's loan to a particular lender.

11 50 e. Not cause unnecessary certification delays for
12 1 borrowers who use a lender that is not included on the
12 2 covered institution's preferred lender list.

12 3 f. Update the preferred lender list and any
12 4 information accompanying the list at least annually.

12 5 3. If the servicer of a private educational loan
12 6 is changed by a lending institution, the lending
12 7 institution shall disclose the change to the affected
12 8 borrower.

12 9 4. A lending institution shall not be placed on a
12 10 covered institution's preferred lender list or in

12 11 favored placement on a covered institution's preferred
12 12 lender list for a particular type of loan, in exchange
12 13 for benefits provided to the covered institution or to
12 14 the covered institution's students in connection with
12 15 a different type of loan.
12 16 Sec. 9. NEW SECTION. 261E.7 DISCLOSURE
12 17 REQUIREMENTS.
12 18 Except for educational loans made, insured, or
12 19 guaranteed by the federal government, a lending
12 20 institution included on a covered institution's
12 21 preferred lender list shall, upon receiving a request
12 22 from a borrower, covered institution, or government
12 23 entity, disclose to the requester in reasonable detail
12 24 and form, the terms of private educational loans made
12 25 to borrowers by that lending institution and the rates
12 26 of interest charged to borrowers for private
12 27 educational loans in the year preceding the
12 28 disclosures.
12 29 Sec. 10. NEW SECTION. 261E.8 PENALTIES.
12 30 1. If after providing notice and an opportunity
12 31 for a hearing the attorney general determines that a
12 32 covered institution or lending institution has
12 33 violated a provision of this chapter, the covered
12 34 institution or lending institution may be liable for a
12 35 civil penalty of up to five thousand dollars per
12 36 violation. In taking action against a covered
12 37 institution or lending institution, consideration
12 38 shall be given to the nature and severity of a
12 39 violation of this chapter.
12 40 2. If after providing notice and an opportunity
12 41 for a hearing the attorney general determines that a
12 42 covered institution employee has violated a provision
12 43 of this chapter, the covered institution employee may
12 44 be liable for a civil penalty of up to two thousand
12 45 five hundred dollars per violation. In taking action
12 46 against a covered institution employee, consideration
12 47 shall be given to the nature and severity of a
12 48 violation of this chapter.
12 49 3. If after providing notice and an opportunity
12 50 for a hearing the attorney general determines that a
13 1 lending institution has violated a provision of this
13 2 chapter, such lending institution shall not be placed
13 3 or remain on any covered institution's preferred
13 4 lender list unless notice of such violation is
13 5 provided to all potential borrowers of the covered
13 6 institution. However, consideration shall be given to
13 7 the nature and severity of a violation of this chapter
13 8 in determining whether and for how long to ban a
13 9 lender from a preferred lender list.
13 10 4. Nothing in this section shall prohibit the
13 11 attorney general from reaching a settlement agreement
13 12 with a covered institution, covered institution
13 13 employee, or lending institution in order to
13 14 effectuate the purposes of this section. Provided,
13 15 however, if such settlement agreement is reached with
13 16 a covered institution or lending institution, the
13 17 attorney general shall provide notice of such action
13 18 to the borrowers in a form and manner prescribed by
13 19 the attorney general.
13 20 5. The attorney general shall deposit the funds
13 21 generated pursuant to this section into the student
13 22 lending education fund, created in section 261E.10.
13 23 6. Each individual incident of a violation of this
13 24 chapter shall be considered a separate violation for
13 25 the purpose of imposing civil penalties.
13 26 Sec. 11. NEW SECTION. 261E.9 RULES ==
13 27 INVESTIGATION AUTHORITY == ENFORCEMENT.
13 28 1. The attorney general shall administer this
13 29 chapter and promulgate rules, pursuant to chapter 17A,
13 30 necessary for the implementation of this chapter.
13 31 Unless otherwise provided, all actions by the attorney
13 32 general pursuant to this chapter shall be subject to
13 33 the provisions of chapter 17A.
13 34 2. The attorney general is authorized to conduct
13 35 an investigation to determine whether to initiate
13 36 proceedings pursuant to this chapter to the same
13 37 extent as the investigation authority granted the
13 38 attorney general under section 714.16.
13 39 Sec. 12. NEW SECTION. 261E.10 STUDENT LENDING
13 40 EDUCATION FUND.
13 41 1. There is established in the state treasury a

13 42 student lending education fund.
13 43 2. The fund shall consist of all revenues
13 44 generated pursuant to section 261E.8 and all other
13 45 moneys credited or transferred to the fund from any
13 46 other fund or source pursuant to law.
13 47 3. Moneys in the fund shall be made available to
13 48 the attorney general for the purpose of enforcing this
13 49 chapter.
13 50 Sec. 13. NEW SECTION. 261E.11 EFFECT ON OTHER
14 1 LAWS OR REGULATIONS.
14 2 This chapter shall not be interpreted to affect the
14 3 liability of any person, covered institution, or
14 4 lending institution under any other state statute or
14 5 rule.
14 6 Sec. 14. STUDENT LOAN SECONDARY MARKET
14 7 INVESTIGATION REPORT.
14 8 1. The attorney general shall submit the findings
14 9 and recommendations resulting from the investigation
14 10 of the student loan secondary market and the Iowa
14 11 student loan liquidity corporation to the general
14 12 assembly by January 15, 2009.
14 13 2. The attorney general shall present the findings
14 14 and recommendations resulting from the investigation
14 15 of the student loan secondary market and the Iowa
14 16 student loan liquidity corporation to the legislative
14 17 government oversight committee at the committee's
14 18 October 2008 meeting.
14 19 Sec. 15. EFFECTIVE DATE. The sections of this Act
14 20 enacting sections 261E.3, 261E.5, 261E.6, and 261E.7,
14 21 take effect January 31, 2009.>
14 22 #2. Title page, by striking line 5 and inserting
14 23 the following: <providing for properly related
14 24 matters, and including an effective date.>
14 25 #3. By renumbering as necessary.
14 26
14 27
14 28
14 29 _____
14 29 LENSING of Johnson
14 30 HF 2690.302 82
14 31 kh/rj/12155